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Monday, May 2, 2022

VIA ECF & VIA EMAIL

Honorable District Judge John P. Cronan
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Courtroom 20C
New York, New York 10007-1312

Re: Kaye v. Health and Hospitals Corporation et. al.
18-CV-12137(JPC)(JLC)

Dear Honorable District Judge Cronan:

Plaintiff respectfully submits, that there are a number of errors in Defendants' filing. Defendants failed to file Exhibits KK and KKK, which has further complicated Plaintiff's opposition to their motion for summary judgment. However, the most significant error pertains to the operative complaint. Defendants never objected to the Amended Complaint filed on May 3, 2019. (ECF. Dkt. 29) At times, when circumstances such as these have taken place, the Court has reviewed the filings to determine intent. Plaintiff has not raised that issue but has sought to litigate the matter on the merits and on the clearly operative complaint filed under ECF Dkt. 29.

Accordingly, the Amended Complaint filed at ECF Dkt. 29, should be the basis of Defendants' motion, not the inoperative complaints filed at Dkts. 22 and 25-1. As previously argued, there are significant differences between the complaints: 2 additional claims and 3 additional pages of pleadings. The rulings are clear, Judge Oetken granted leave on May 2, 2019 to re-file on or by May 3, 2019. (Dkts. 27 and 28) It is therefore implausible that the Court would grant a motion to re-file a complaint that had already been filed on the docket. Plaintiff thereby respectfully requests, that in the interests of fairness and to avert any further filings on this matter that motion deadlines be held in abeyance until resolution has been reached.

Respectfully submitted,

/s/

Special Hagan, Esq.
Attorney for Melissa Kaye, MD

Cc: Donna Canfield, Esq.
Counsel for Defendants